

ARTICLE 4. SPECIAL EDUCATION

R7-2-401. Special Education Standards for Public Agencies Providing Educational Services	
<p>A. For the purposes of this Article, the Individuals with Disabilities Education Act Amendments of 1997 (IDEA), 20 USC 1400 et seq. as reauthorized on June 4, 1997, and the IDEA 1997 regulations, 34 CFR parts 300.4 through 300.756 effective March 1999, are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA 15250 or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson, Phoenix, Arizona 85007. This Article does not include any later amendments or additions to IDEA or IDEA regulations.</p>	
<p>B. Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR Parts 300.4 through 300.30) and A.R.S. § 15-761 are applicable, with the following additions:</p> <ol style="list-style-type: none"> 1. "Accommodations" means the provisions made to allow a student to access and demonstrate learning. Accommodations do not substantially change the instructional level, the content or the performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the test or provide inappropriate assistance to the student within the context of the test. 2. "Adaptations" means changes made to the environment, curriculum, and instruction or assessment practices in order for a student to be a successful learner. Adaptations include accommodations and modifications. Adaptations are based on an individual student's strengths and needs. 3. "Administrator" means the chief administrative official or designee (responsible for special education services) of a public agency. 4. "Audiologist" means a person who specializes in the identification and prevention of hearing problems and in the non-medical rehabilitation of those who have hearing impairments and who is licensed to practice audiology according to A.R.S. Title 36, Chapter 17, Article 4. 5. "Boundaries of responsibility" means for: <ol style="list-style-type: none"> a. A school district, the geographical area within the legally designated boundaries. b. A public agency other than a school 	<p>ADD certified special education teacher</p> <p>ADD some type of language that addresses the use of paraeducators.</p> <p>Add definition of "low incidence" disability</p> <p>Add definition of "severe disability"</p> <p>Add definition of "suspension", both long term and short term.</p> <p>Add definition of "screening"</p> <p>Add definition of "home-schooled children " and/or "home schools"</p>

<p>district, the population of students enrolled in a charter school or receiving educational services from a public agency.</p> <p>6. "Certified school psychologist" means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, in the area of school psychology.</p> <p>7. "Certified speech/language therapist" means a person holding a certificate from the Arizona state board of education issued pursuant to 7 A.A.C. 2, Article 6, and a license from the Arizona Department of Health Services as a speech/language pathologist in accordance with A.R.S. Title 36, Chapter 17, Article 4.</p> <p>8. "Department" means the Arizona Department of Education.</p> <p>9. "Doctor of medicine" means a person holding a license to practice medicine pursuant to Chapter 13 (medical doctor) or Chapter 17 (doctor of osteopathy) of Title 32, Arizona Revised Statutes.</p> <p>10. "Evaluator" means a qualified person in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.</p> <p>11. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:</p> <ul style="list-style-type: none"> a. A review of existing information about the child; and b. A decision regarding the need for additional information; and c. If necessary, the collection of additional information; and d. A review of all information about the child and a determination of eligibility for special education services and needs of the child. <p>12. "Independent educational evaluation" means an evaluation conducted by a qualified evaluator who is not employed by the public agency responsible for the education of the child in question.</p> <p>13. "Interpreter" means a person trained to translate orally or in sign language in matters</p>	
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<p>pertaining to special education identification, evaluation, placement, the provision of FAPE, or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.</p> <p>14. "Language in which the student is proficient" means all languages including sign language systems.</p> <p>15. "Licensed psychologist" means a person holding a license from the state of Arizona board of psychologist examiners in accordance with A.R.S. Title 32, Chapter 19.1, Article 2.</p> <p>16. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.</p> <p>17. "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public agency. "Private school" does not include home schools.</p> <p>18. "Private special education school" means a private school that is established to serve primarily students with disabilities. The school may also serve students without disabilities.</p> <p>19. "Psychiatrist" means a doctor of medicine who specializes in the study, diagnosis, treatment and prevention of mental disorders.</p> <p>20. "Public agency" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.</p>	<p>B.17 DELETE "private school" does not include home schools"</p>
<p>C. Public Awareness.</p> <p>1. Each public agency shall inform the general public and all parents, within the public</p>	

<p>agency's boundaries of responsibility, of the availability of special education services for students aged three through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.</p> <ol style="list-style-type: none"> 2. Each public agency is responsible for public awareness within their enrolled population (including the families of enrolled students). 3. School districts are responsible for public awareness in private schools located within their geographical boundaries. 	<p>C.3. ADD “and home schools”</p>
<p>D. Child Identification and Referral.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish, implement, and disseminate to its school-based personnel and all parents, within the public agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools, regardless of the severity of their disability. 2. Each public agency will require all school-based staff to review the written procedures related to child identification and referral on an annual basis. The public agency shall maintain documentation of staff review. 3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules. 4. The public agency responsible for child identification activities is the school district in which the parents reside unless: <ol style="list-style-type: none"> a. The student is enrolled in a charter school or public agency that is not a school district. In that event, the charter school or public agency is responsible for child identification activities; b. The student is enrolled in a private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities. 5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after: <ol style="list-style-type: none"> a. Entry of each kindergarten student and any 	<p>D.1. ADD “and home schools”</p> <p>Add a requirement to screen preschool children enrolled in any public school-sponsored preschool program and, if appropriate, refer for consideration for special education eligibility.</p>

<p>student enrolling without appropriate records of screening, evaluation, and progress in school; or</p> <p>b. Notification to the public agency by parents of concerns regarding developmental or educational progress by their child aged three years through 21 years.</p> <p>6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.</p> <p>7. For a student transferring into a school; the public agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.</p> <p>8. If a concern about a student is identified through screening procedures or through review of records, the public agency shall notify the parents of the student of the concern within 10 school days and inform them of the public agency procedures to follow-up on the student's needs.</p> <p>9. Each public agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (C)(5)(b), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.</p> <p>10. If the identification process indicates a possible disability, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. If the parent of an identified student enrolled in a private school does not reside within the school district</p>	<p>D.9. CORRECT to (D)(5)(b)</p> <p>D.10. ADD "If such a referral is made, the PEA shall provide Prior Written Notice to the parents</p>
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<p>boundaries, the parent, with the assistance of the school district, shall notify the district in which the parents reside of the needs of the student and the residence school district will assume responsibility follow-up.</p> <p>11. If, after consultation with the parent, the responsible public agency determines that a full and individual evaluation is not warranted, the public agency shall provide Prior Written Notice and Procedural Safeguards Notice to the parent within 60 calendar days.</p>	<p>provide Prior Written Notice to the parents</p> <p>D.11. Change parent notification from 60 calendar days to 30 school days or 30 calendar days. [Note: substantial disagreement continues to exist re: school vs. calendar days for the timeline requirements]</p> <p>D.11. RECONSIDER the 60-day rule</p>
<p>E. Evaluation/Re-evaluation.</p> <p>1. Each public agency shall establish, implement, disseminate to its school-based personnel, and make available to parents within its boundaries of responsibility, written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.</p> <p>2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and regulations, and state statutes and state board of education rules.</p> <p>3. The initial evaluation of a child being considered for special education shall be completed as soon as possible, but shall not exceed 60 calendar days from receipt of informed written consent. If the public agency initiates the evaluation, the 60-day period shall commence with the date of receipt of informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility. If the parent requests the evaluation and the MET concurs, the 60-day period shall commence with the date that the written parental request was received by the public agency and shall conclude with the date of the MET determination of eligibility.</p> <p>4. The public agency may accept current information about the student from another state, public agency, or independent evaluator. In such instances, the Multidisciplinary Evaluation Team shall be responsible for</p>	<p>ADD language requiring the PEA to obtain a surrogate parent in accordance with ARS.</p> <p>E.3. RECONSIDER 60-day rule</p> <p>ADD Reevaluations to 60-day rule</p> <p>ADD 30-day extension with parental consent</p> <p>ADD a requirement that if a parent makes a verbal request, school personnel have the obligation to inform the parents that the request needs to be in writing.</p> <p>E.4. CORRECT to (E)(1) through (6)</p>

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<p>reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (D)(1) through (6).</p> <p>5. For the following disabilities, the full and individual initial evaluation shall include:</p> <ul style="list-style-type: none"> a. Emotional disability: verification of a disorder by a psychiatrist, licensed psychologist, or a certified school psychologist. b. Hearing impairment: <ul style="list-style-type: none"> (1) An audiological evaluation by an audiologist; and (2) An evaluation of communication/language proficiency. c. Other health impairment: verification of a health impairment by a doctor of medicine. d. Specific learning disability: a determination of whether the discrepancy between achievement and ability meet the public agency criteria. e. Orthopedic impairment: verification of the physical disability by a doctor of medicine. f. Speech/language impairment: an evaluation by a certified speech/language therapist. g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to: <ul style="list-style-type: none"> (1) An audiometric screening within the past calendar year; (2) A review of academic history and classroom functioning; (3) An assessment of the speech problem by a speech therapist; or (4) An assessment of the student's functional communication skills. h. Traumatic brain injury: verification of the injury by a doctor of medicine. i. Visual impairment: verification of a visual impairment by an ophthalmologist. <p>6. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of (D)(6)(a) through (i) are required for a student's re-evaluation.</p>	<p>Add requirements for autism</p> <p>E.5.b. CONSIDER requiring an ENT</p> <p>Do not add ENT as they would only refer to an audiologist</p> <p>Add “significant” before discrepancy</p> <p>E.5.i CONSIDER adding optometrist</p> <p>E.5.i CONSIDER adding optometrist after initial diagnosis by an ophthalmologist</p> <p>E.6. CORRECT to (E)(6)(a) through (i)</p>
<p>F. Individualized Education Program (IEP).</p> <p>1. Each public agency shall establish, implement, and disseminate to its school-based personnel,</p>	<p>ADD requirement for a certified special education teacher or related service provider for service delivery in some capacity</p>

<p>and make available to parents, written procedures for the development, implementation, review, and revision of IEPs.</p> <ol style="list-style-type: none"> 2. Procedures for IEPs shall meet the requirements of the IDEA and regulations, and state statutes and state board of education rules. 3. Procedures shall include the incorporation of Arizona Academic Standards into the development of each IEP. IEP goals aligned with the Arizona Academic Standards shall identify the specific level within the Standard that is being addressed. 4. Each student with a disability shall participate in the Arizona Student Assessment Program. The level at which a student will be assessed shall be documented on the student's IEP and shall be at least at the student's instructional level. The IEP shall also document instructional and assessment adaptations required by the student. 5. A meeting shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. 6. A parent or public agency may request in writing a review of the IEP. Such review shall take place within 15 school days of the receipt of the request or at a mutually agreed upon time but not to exceed 30 school days. 	<p>delivery in some capacity</p>
<p>G. Least Restrictive Environment.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish, implement, and disseminate to its school-based personnel, and make available to parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and regulations, and state statutes and state board of education rules. 2. A continuum of services and supports for students with disabilities shall be available through each public agency. 	

<p>H. Procedural Safeguards.</p> <p>Each public agency shall establish, implement, and disseminate to its school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public agency's and state's dispute resolution options.</p>	<p>ADD a requirement that prior written notice must be provided to a parent within 14 calendar days after a parent makes any written request of the school.</p> <p>See above – use 10 school days instead of 14 calendar days</p>
<p>I. Confidentiality.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA, the Family Education Right to Privacy Act (FERPA) and regulations, and state statutes. 2. Upon receiving a written request, each public agency shall forward special education records to any other public agency in which a student is attempting to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public agency shall also forward records to any other person or agency for which the parents have given signed consent. 	<p>ADD “Parents shall be fully informed about the requirements of IDEA 300.127 including a summary of the policies and procedures that the PEA must follow regarding storage disclosure to a 3rd party, retention and destruction of personally identifiable information”</p>
<p>J. Preschool Programs. Each public agency responsible for serving preschool children with disabilities shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for:</p> <ol style="list-style-type: none"> 1. The operation of the preschool program in accordance with federal statute and regulation, and state statute; 2. The smooth and effective transition from the Arizona Early Intervention Program (AzEIP) to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and 3. The provision of a minimum of 360 minutes of instruction in a program that operates at least three days a week. 	
<p>K. Children in Private Schools.</p> <p>Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures regarding the access to special education services to students enrolled in private schools as identified by the IDEA and regulations, and state statutes and state board of education rules.</p>	<p>ADD “and home schools”</p>

<p>L. State Education Agency Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.</p> <ol style="list-style-type: none"> 1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public agency. 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive a free appropriate public education in conformance with the IDEA and regulations, Title 15, Chapter 7, Article 4 and these rules. 	
<p>M. Procedural Requirements Relating to Public Agency Eligibility.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish eligibility for funding with the Arizona Department in accordance with the IDEA and regulations, and state statutes and with schedule and method prescribed by the Department. 2. In the event the Department determines a public agency does not meet eligibility for funding requirements, the public agency has a right to a hearing before the state board of education before such funding is withheld. 3. The Department may temporarily interrupt payments during any time period when a public agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings. 4. Each public agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public agency who have been placed by their parents in private schools. 	<p>M.2. CHANGE state board of education to “an independent review panel of the ADE”.</p> <p>M.4. ADD “and home schools”</p>
<p>N. Public Participation.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures to ensure that, prior to the adoption of any policies and procedures needed to comply with federal and state statutes and regulations, there are: <ol style="list-style-type: none"> a. Public hearings, b. Notice of the hearings, and c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities 2. This requirement does not pertain to day-to-day operating procedures. 	

<p>O. Suspension and Expulsion.</p> <ol style="list-style-type: none"> 1. Each public agency shall establish, implement, and disseminate to its personnel, and make available to parents, written procedures for the suspension and expulsion of students with disabilities. 2. Each public agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public agency shall maintain documentation of staff review. 3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and regulations, and state statutes. 	<p>Add clarification regarding partial-day suspensions</p>
<p>R7-2-402. Standards for Approval of Special Education Programs in Private Schools</p>	
<p>A. Definitions. All terms defined in the regulations for the Individuals with Disabilities Education Act (IDEA) 1997 Amendments (34 CFR parts 300.4 through 300.30), A.R.S. § 15-761, and state board of education rule A.A.C. R7-2-401 are applicable.</p>	
<p>B. No student may be placed by a public agency in a private school special education school program unless the facility has been approved as meeting the standards as outlined in this rule, and the public agency is unable to provide satisfactory education and services through its own facilities and personnel.</p>	
<p>C. In order for a private special education school to be approved by the Department for the purpose of contracting with a public agency, the private facility shall:</p> <ol style="list-style-type: none"> 1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA. 2. Provide the following documentation: <ol style="list-style-type: none"> a. Policies and procedures based on IDEA and state statutes; b. Curriculum that is aligned with the Arizona Academic Standards; c. A completed application; d. Copies of all teacher and related service personnel certifications and licenses; and e. If applicable, a copy of North Central Accreditation. 	

<ol style="list-style-type: none"> 3. Provide certified special education teachers in each classroom to implement the IEPs of those students assigned to that classroom. 4. Provide related services to meet the needs of the students as indicated on their IEPs. 5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certified in the appropriate area of special education. 6. Provide an education that meets the standards that apply to education provided by the public agency. 7. Maintain student records in accordance with the statutory requirements. 8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public agency contracting for the students' education. 9. Maintain adequate liability insurance. 10. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request. 11. Maintain an attendance reporting system that provides public agencies and the Department with required information. 12. Provide notification to contracting public agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion. 13. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public agencies. 14. Request approval to contract with public agencies from the Department in accordance with the prescribed procedures. 	<p>C.8 ADD “including administration of statewide assessments”.</p> <p>Add a requirement that the private school cannot expel a child without appropriate notice to the placing LEA – including time for the LEA to make alternate educational arrangements</p> <p>See above – use “cannot cease services” instead of “cannot expel”</p>
R7-2-403. Out-of-state private special education schools	
<p>In order for a public school district ("LEA") in Arizona to contract with an out-of-state private special education school, the following steps must be completed:</p> <ol style="list-style-type: none"> 1. The LEA must submit to the Division of Special Education a request for approval 	

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<p>(Form ADE 35-301) stating:</p> <ul style="list-style-type: none"> a. The name of private out-of-state facility. b. The name of child for whom out-of-state special education placement is contemplated and area of exceptionality. c. An affidavit signed by the LEA authorized agent verifying that: <ul style="list-style-type: none"> i. The child for whom out-of-state placement is requested is diagnosed as qualifying for physically handicapped, visually handicapped, hearing handicapped, trainable mentally handicapped, seriously emotionally handicapped or multihandicapped pursuant to A.R.S. § 15-761. ii. No program exists within the LEA for the exceptionality of the specific child in the request. iii. No program can feasibly be instituted and the reason. iv. The out-of-state placement is the least expensive adequate alternative. d. Subject to R7-2-401(A)(2), the Division of Special Education shall approve all out-of-state special education placements after verification that: <ul style="list-style-type: none"> i. No special education services exist in the state which are appropriate for the specific handicapped child. ii. The out-of-state placement is the least expensive adequate alternative available to the LEA. 	<p>Change these categories</p>
<p>2. Records in the Division of Special Education must indicate that the out-of-state private special education school is approved by the State Department of Education in the state in which it is located to educate handicapped children in the category requested.</p>	
<p>3. Approval by the Division of Special Education is issued only for individual children and for one school year if the conditions in this Section have been met.</p>	
<p>R7-2-404. Special education voucher program policies and procedures</p>	
<p>A. Institutional vouchers. An educational evaluation will determine the eligibility for special education</p>	

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institutional voucher funding for students residing in and attending special education programs in 1 of the SSI's, or those residing in an SSI and attending an LEA special education program.	
<p>1. Eligibility</p> <ul style="list-style-type: none"> a. Those eligible for a special education institutional voucher are <ul style="list-style-type: none"> i. Students, ages 5-21, who reside in, and attend special education programs at 1 of the Arizona training programs for the mentally retarded at Coolidge, Phoenix, and Tucson, or Arizona State School for the Deaf and the Blind, or who attends day school programs within 1 of the 4 institutions (institution submits voucher application). ii. Students, ages 5-21, who reside in 1 of the 4 SSI's and attend an LEA special education program (LEA submits voucher application). b. Those not eligible for a special education institutional voucher are: <ul style="list-style-type: none"> i. Students who do not reside in 1 of the training programs or Arizona State School for the Deaf and the Blind, or who do not attend a day school program within these institutions. ii. Students placed in group homes by the Department of Economic Security/Bureau of Mental Retardation. These students are eligible for certificates of educational convenience if the child's parents are not legal residents of the LEA in which the group home is located. 	<p>Change from age 5 to age 3</p> <p>Change age 5 to age 3</p>
<p>2. Evaluations. All educational evaluations are to be conducted by the SSI of residence or the LEA making application for the institutional voucher. The evaluation must be submitted with the application for special education institutional voucher. No voucher application can be processed without accompanying evaluative materials.</p>	Delete all starting with "The evaluation must be..."
<p>3. Institutional voucher application/approval</p> <ul style="list-style-type: none"> a. The application for special education institutional voucher (ADE 35-108) is completed by the SSI or the LEA and is forwarded, along with the educational 	Reword to "The application for special education institutional voucher (ADE 35-108) is completed by the SSI or the LEA and is forwarded, along with the educational evaluation, to the Division of Special Education, Department of Education. The SSI or LEA

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<p>evaluation, to the Division of Special Education, Department of Education. The SSI or LEA must provide all student information requested on the institutional voucher application.</p> <p>b..</p> <p>c. A student identification number is assigned by the Division of Special Education to each approved institutional voucher student and this number will be used by the SSI or LEA when completing the claim for payment form (ADE 35-109) and the special education census form (ADE 35-102).</p> <p>d. The institutional voucher application procedure must be repeated each school year. If a student is transferred from 1 SSI educational program to another during any school year, or if a student transfers from an SSI program to a special education program in an LEA, a 2nd institutional voucher must be submitted to the Division of Special Education.</p> <p>e. Evaluations and reevaluations to determine continued placement of children receiving institutional voucher funds will be conducted by the SSI or the LEA making application for the institutional voucher.</p>	<p>Education, Department of Education. The SSI or LEA must provide all student information requested on the institutional voucher application.</p> <p>Reword to: Following receipt of the application and evaluative material by the Division of Special Education, the materials are reviewed. After approval/disapproval of the institutional voucher application has been determined, the application is signed by the Director of Program Services, Division of Special Education, and notification is sent to the SSI or LEA providing the special education program. Institutional voucher payment WILL NOT BE MADE FOR ATTENDANCE PRIOR TO VOUCHER APPROVAL DATE</p> <p>Add “as determined by the MET Team”</p>
<p>4. Student withdrawal</p> <p>a. When an approved special education institutional voucher student is withdrawn or terminated from the SSI or LEA named on the approved institutional voucher application, a notice of student withdrawal (ADE 35-110) must be completed by the facility and forwarded to the Division of Special Education so the withdrawal/termination may be recorded.</p> <p>b. This withdrawal procedure pertains to students withdrawn from programs and to those transferred from the SSI special education program to another SSI or to an LEA special education program.</p>	
<p>5. Institutional voucher claim for payment</p> <p>a. The special education institutional voucher claim for payment form (ADE 35-109) is</p>	

<p>completed at the end of each calendar month by the SSI or LEA providing special education services, showing names of approved institutional voucher students, assigned student identification numbers, entry dates, withdrawal dates when applicable, and monthly charges.</p> <p>b. The claim for payment forms are signed by the SSI or LEA administrator and returned to the Division of Special Education for processing by the Division of Business and Finance.</p>	
<p>6. Special education census</p> <p>a. All institutional voucher students must be reported on the special education census form (ADE 35-102). Instructions found on the back of the form shall be followed, with the following exceptions:</p> <p>i. The student number to be used for institutional voucher students when entering their names on the census form is the student identification number assigned to approved voucher applications.</p> <p>ii. SSI's will leave column 9 (district of residence) blank.</p> <p>iii. LEA's will place in column 9 (district of residence) the following county-type-district number assigned to the state institution where the student resides:</p> <p>Arizona State School for the Deaf and the Blind: 00-12-03</p> <p>Arizona Training Program at Coolidge: 00-12-04</p> <p>Arizona Training Program at Tucson: 00-12-05</p> <p>Arizona Training Program at Phoenix: 00-12-06</p>	
<p>7. Review of placement</p> <p>a. The application process must be implemented in the summer for each student expected to continue in approved educational placement at the beginning of the next school year. Just as submission of an institutional voucher application is an annual event, so too is review of placement to determine continued eligibility for the institutional voucher. In most cases this will not involve actual testing, but rather a record review,</p>	

<p>supplementary testing, or review of educational progress. The responsibility for the summer review of placement rests with the SSI or LEA making application for the institutional voucher. Voucher students must have their progress reviewed at least once each semester by LEA staff.</p>	
<p>B. Permanent vouchers. Children placed by the Department of Economic Security, the Juvenile Courts, or the Department of Corrections in private residential treatment facilities for purposes of special education must be educationally evaluated to determine their eligibility for a permanent special education voucher in the facility in which he/she is to be placed.</p>	
<p>1. Eligibility</p> <ul style="list-style-type: none"> a. Those eligible for permanent special education vouchers are: <ul style="list-style-type: none"> i. Children, ages 5-21, who are to be placed in private residential facilities by the Department of Economic Security, the Juvenile Courts, or Department of Corrections. ii. Children suspected of or having been confirmed to have a handicapping condition requiring special education and related services. iii. Children anticipated to be attending special education programs in such facilities as are approved by the Division of Special Education and licensed as a residential treatment facility by the DES. b. Those not eligible for permanent special education vouchers are: <ul style="list-style-type: none"> i. Children placed by the Bureau of Indian Affairs in private residential facilities approved as a private special education school. ii. Children placed and funded by Champus. iii. Children privately placed in private special education facilities. iv. Children who reside in private residential treatment facilities but attend any type of public school program. v. Children attending special education 	

<p>programs in private facilities which are not approved by the Division of Special Education.</p> <p>vi. Children attending a regular education program in private or public schools.</p> <p>c. All children must be evaluated by the placing agency as provided in these rules.</p>	
<p>2. Voucher application/approval</p> <p>a. Upon receipt of the educational evaluation report, the referral agent (Department of Economic Security, Juvenile Courts or Department of Corrections) determines from the educational diagnosis the most appropriate special education and residential placement for the child. The private facility must be approved by the Division of Special Education. Twice annually each placing agency is sent an updated list of these approved private facilities.</p> <p>b. An application for permanent special education voucher (ADE 35-103) is completed by the placing agent and forwarded to the Division of Special Education. The placing agent must provide all student information required by this form.</p> <p>c. Upon receipt of the 4 components contained in each child's voucher application packet (referral form, evaluation, evaluation summary sheet, and voucher application), a review is conducted by the Division of Special Education to determine if the designated special education placement is appropriate.</p> <p>d. After approval/disapproval of the voucher application has been determined, the application is signed by the Director of Program Services, Division of Special Education, and notification is sent to the placing agent and to the private facility. Voucher payment will not be made for attendance prior to voucher approval date.</p> <p>e. A student identification number is assigned by the Division of Special Education to each approved voucher student and this number will be used by the private facility when completing the special education census form (ADE 35-102) and the claim</p>	

<p>for payment form (ADE 35-105).</p> <p>f. The voucher application procedure must be repeated each school year. If a student is transferred from 1 approved private facility to another during any school year, a 2nd voucher application must be submitted to the Division of Special Education.</p> <p>g. As special education vouchers are approved by the Division of Special Education, a copy of the approval memo will be sent to the student's school district of residence. The district of residence for children placed by state agencies is the district in which the private school is located.</p> <p>h. Voucher students must have their progress reviewed at least once each semester by LEA staff to see which are eligible to attend LEA educational programs. Evaluations and reevaluations to determine continued placement will be conducted by evaluators approved by the Department of Economic Security, and the LEA is responsible only for the reviews of progress.</p>	
<p>3. Student withdrawal</p> <p>a. Whenever an approved special education voucher student is withdrawn from the facility named on the approved voucher application, a notice of student withdrawal (ADE 35-106) must be completed by the private facility and forwarded to the placing agent for signature verifying entry and withdrawal dates.</p> <p>b. The placing agent will return the withdrawal form to the Division of Special Education so the withdrawal may be recorded. These withdrawal procedures pertain to students dropped from programs and to those transferred from 1 approved private facility to another by the placing agency.</p>	
<p>4. Voucher claim for payment</p> <p>a. The special education voucher claim for payment form (ADE 35-105) is completed at the end of each calendar month by the private facility, showing the names of approved voucher students,</p>	

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<p>assigned I.D. numbers, entry dates, withdrawal dates when applicable, and tuition amounts.</p> <p>b. These claim forms are signed by the school administrator and returned to the Division of Special Education for processing by the Division of Business and Finance.</p>	
<p>5. Special education census</p> <p>a. A special education census form (ADE 35-102) must be completed for all voucher students. Instructions are found on the back of the census form, but there are 2 exceptions pertaining to voucher students:</p> <p>i. The student number to be used on the census form is the student I.D. number that appears on the approved voucher application.</p> <p>ii. Do not use the county-type-district numbers of the LEA in which you are located for column 9 (district of residence). Use the following information in completing column 9: If the 1st 2 digits Place these numbers of student I.D. numbers in column 9 number are (district of residence):</p> <p>city/type/dist</p> <p>10.....00-31-10</p> <p>2000-31-20</p> <p>3000-31-30</p>	
<p>6. Reevaluation. The process outlined in (B)(1) and (2) must be implemented in the summer for each child expected to continue in his/her approved educational placement at the beginning of the next school year. Just as submission of a voucher application is an annual event, so too is reevaluation to determine continued eligibility for the voucher. In most cases this will not involve actual testing but rather a record review, interview, or supplementary assessment.</p>	
<p>R7-2-405. Due Process Standards Relating to Special Education</p>	
<p>A. Definitions. The following definitions are applicable to this rule:</p> <p>1. "Impartial hearing officer" or "hearing officer" means a person or tribunal assigned to preside at a due process hearing whose duty it is to</p>	<p>Establish a statute of limitations for filing a request for a due process hearing, e.g. 2 years</p>

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<p>assure that proper procedures are followed and that rights of the parties are protected.</p> <p>2. "Parent" has the meaning found in A.R.S. Title 15, Chapter 7, Article 4, and includes a surrogate parent. Appointment of a surrogate parent shall be made only by a court of competent jurisdiction.</p> <p>3. "Public agency" means the school district, charter school, or state or county agency responsible for providing educational service to a child.</p> <p>4. "State Education Agency" ("SEA") means the Department of Education, Exceptional Student Services Section.</p>	
<p>B. The due process procedures specified in this rule apply to all public agencies dealing with the identification, evaluation, special education placement of, and the provision of a free appropriate public education ("FAPE") for children with disabilities.</p>	
<p>C. The SEA shall establish procedures concerning:</p> <ol style="list-style-type: none"> 1. Impartial due process hearings; and 2. Confidentiality and access to student records. 	
<p>D. An impartial hearing officer shall be:</p> <ol style="list-style-type: none"> 1. Unbiased - not prejudiced for or against any party in the hearing; 2. Disinterested - not having any personal or professional interest that would conflict with objectivity in the hearing; 3. Independent - may not be an officer, employee, or agent of a public agency involved in the education or care of the child or the SEA. A person who otherwise qualifies to conduct a hearing is not an employee of the public agency or the SEA solely because the person is paid by the public agency to serve as a hearing officer; 4. Trained and evaluated by the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities. 	
<p>E. Hearing officer qualifications and training.</p> <ol style="list-style-type: none"> 1. All hearing officers shall participate in all required training and evaluation conducted by 	

<p>the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities.</p> <ol style="list-style-type: none"> 2. All hearing officers shall demonstrate competency by achieving a minimum score of 80% on a criterion-referenced test selected by the SEA. 3. A hearing officer shall be an attorney licensed to practice law in the United States, or an attorney on inactive status whose withdrawal from active practice is not premised upon adverse disciplinary action from any state or federal bar association. A hearing officer shall not have represented a parent in a special education matter during the preceding calendar year and shall not have represented a school district in any matter during the preceding calendar year. 4. An individual shall be removed from the list of eligible hearing officers if, at any time, the individual no longer meets the requirements specified in subsection (D)(1) through (4) and subsection (E)(1) through (3). 	
<p>F. Selection of hearing officers.</p> <ol style="list-style-type: none"> 1. The SEA shall prepare and maintain a list of individuals who meet the qualifications specified in subsection (E) to serve as hearing officers. 2. Three hearing officers shall be selected randomly by the SEA and shall be screened to determine availability and possible bias. Once the SEA has selected 3 hearing officers who are available and show no evidence of bias, the 3 names shall be provided to the public agency and the parent. The public agency and the parent will each have the opportunity to strike 1 name from the list provided. The remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the SEA. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in subsections (D) and (E)(1) through (3). The SEA shall review the evidence submitted and determine the qualifications of the individual. If the SEA determines that the individual is not qualified to serve as the hearing officer, the SEA shall repeat the process and select 3 additional 	<p>F.1 ADD “The list shall include the qualifications of each hearing officer”.</p>

hearing officers to be provided to the parties.	
<p>G. A parent shall submit a written request for a due process hearing to the public agency. The SEA shall provide a model form that a parent may use in requesting a due process hearing. Upon receipt of a written request, there shall be no change in the educational placement of the child until the hearing officer renders a decision, unless the public agency and parent agree. If a parent requests a due process hearing, the public agency shall advise the parents of any free or low-cost legal services available. All correspondence to the parent shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in a program for which the child is eligible until the completion of all proceedings.</p>	
<p>H. An impartial due process hearing shall be conducted in accordance with the following procedures:</p> <ol style="list-style-type: none"> 1. The hearing officer shall hold a preconference meeting to ensure that all matters are clearly defined, to establish the proceedings that will be used for the hearing, and to set the time and dates for the hearing. 2. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner to the end that all parties involved have an opportunity to: <ol style="list-style-type: none"> a. Present their evidence and confront, cross-examine, and compel the attendance of witnesses; b. Object to the introduction of any evidence at the hearing that has not been disclosed to all parties at least 5 business days before the hearing; c. Produce outside expert witnesses; d. Be represented by legal counsel or by individuals with special knowledge or training with respect to the problems of children with disabilities. 3. The parent involved in the hearing shall be given the right to: <ol style="list-style-type: none"> a. Have the child who is the subject of the hearing present; b. Have the hearing conducted in public; c. Have an interpreter provided by the public 	

<p>agency.</p> <ol style="list-style-type: none"> 4. The hearing officer shall review all relevant facts concerning the identification, evaluation, the educational placement, and the provision of FAPE. This shall include any Independent Education Evaluation secured by the parent. <ol style="list-style-type: none"> a. The hearing officer shall determine whether the public agency has met all requirements of federal and state law, rules, and regulations. b. The hearing officer shall render findings of fact and a decision, which shall be binding on all parties unless appealed pursuant to this rule, as to whether: <ol style="list-style-type: none"> i. The evaluation procedures utilized in determining the child's needs have been appropriate in nature and degree; ii. The diagnostic profile of the child on which the placement was based is substantially verified; iii. The child's rights have been fully observed; iv. The placement has been determined to be appropriate to the needs of the child; v. The placement of the child in the special education program is with the written consent of the parent. 5. The hearing officer's findings of fact and decision shall be in writing and shall be provided to the parent, the public agency, the SEA, and their respective representatives. The parent may choose to receive an electronic verbatim record of the hearing and electronic findings of fact and decision relative to the hearing in addition to the written findings of fact and decision. The hearing officer's findings of fact and decision shall be delivered by certified mail or by hand within 45 calendar days after the receipt of the request for the hearing. The notification of the hearing officer's decision shall include a statement that either party may appeal the decision to the Office of Administrative Hearings and that such appeal must be filed within 35 calendar days after receipt of the decision. 6. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public. 	<p>ADD "A hearing officer or reviewing officer may grant specific extensions of time beyond the periods set out in paragraph H.5 at the request of either party.</p>
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<p>I. Expedited hearing.</p> <ol style="list-style-type: none"> 1. An expedited hearing may be requested concerning long-term suspension or expulsion: <ol style="list-style-type: none"> a. By the parent if the parent disagrees with the determination that the child's behavior was not a manifestation of the child's disability; or b. By the parent if the parent disagrees with any decision regarding placement; or c. By the public agency if the public agency maintains that it is dangerous for the child to be in the current placement during the pendency of the due process proceedings. 2. Hearing officers for an expedited hearing shall be assigned by the SEA after review to determine that the hearing officer meets the standards specified in subsection (D)(1) through (4). The strike provisions specified in subsection (F) are not applicable. 3. The expedited hearing shall be conducted and the findings of fact and decision shall be issued within 10 calendar days. 	
<p>J. Administrative appeal.</p> <ol style="list-style-type: none"> 1. A final administrative appeal may be obtained through the Office of Administrative Hearings. Requests for appeal shall be submitted in writing through the SEA. <ol style="list-style-type: none"> a. Such an appeal shall be accepted only if it is initiated within 35 days after the decision of the hearing officer has been received by the party appealing. b. The official conducting the review shall: <ol style="list-style-type: none"> i. Examine the entire hearing record; ii. Ensure that the procedures at the hearing were consistent with the requirements of due process; iii. Seek additional evidence if necessary; iv. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; v. Make findings of fact and a decision on completion of the review; vi. Give a copy of the written findings of fact and the decision to the parties. 2. The findings of fact and decision of the administrative law judge shall be delivered by certified mail or by hand to all parties within 	<p>J.1.b.v. ADD “independent” before decision</p>

<p>30 calendar days of the receipt of the request for appeal. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public.</p> <p>3. The findings of fact and decision of the administrative law judge shall be final at the administrative level. The notification of the findings of fact and decision shall contain notice to the parties that they have a right to judicial review.</p>	
R7-2-408. Extended School Year Programs for Children with Disabilities	
A. "Extended school year" shall be as defined in A.R.S. § 15-881.	
<p>B. Eligibility. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be:</p> <ol style="list-style-type: none"> 1. Regression-recoupment factors; 2. Critical learning stages; 3. Least restrictive environment considerations; 4. Teacher and parent interviews and recommendations; 5. Data-based observations of the pupil; 6. Considerations of the pupils' previous history; and 7. Parental skills and abilities. 	<p>Delete repetitive language from statute and add clarifying language in the rules</p> <p>Add a timeline for the decision to provide/not to provide ESY</p>
C. The extended school year program is not compulsory and is not required for all students with a disability.	
<p>D. Factors that are inappropriate for consideration. Eligibility for participation shall not be based on need or desire for any of the following:</p> <ol style="list-style-type: none"> 1. A day care or respite care service for students with a disability; 2. A program to maximize the academic potential of a student with a disability; and 3. A summer recreation program for students with a disability 	

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